

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Subordination of Utility Interest Agreement

DEPARTMENT: County Attorney's Office

DIVISION: Property Acquisition

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Execute Subordination of Utility Interest Agreement. Lake Emma Road Subordination of Utility Interest Agreement (Parcel Numbers 126, 755, 835A/835B and 848) between Seminole County and Florida Power Corporation d/b/a Progress Energy Florida, Inc., in conjunction with the Lake Emma Road improvement project.

District 4 Carlton D. Henley

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board authorize execution of the Lake Emma Road Subordination of Utility Interest Agreement (Parcel Numbers 126, 755, 835A/835B and 848) between Seminole County and Florida Power Corporation d/b/a Progress Energy Florida, Inc., in conjunction with the Lake Emma Road improvement project.

ATTACHMENTS:

1. Subordination of Utility Interests

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

FROM: Al Schwarz, Assistant County Attorney *AHS*
Ext. 5736

THROUGH: Matthew G. Minter, Deputy County Attorney *M G Minter*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E./Principal Engineer/Engineering Division *DVN*

DATE: February 26, 2008

SUBJECT: Easements
Florida Power Corporation d/b/a Progress Energy Florida, Inc.
Lake Emma Road road improvement project
Parcel Nos. 126, 755, 835A/835B and 848
Seminole County v. Huntington Pointe HOA, et al
Case No. 2007-CA-3987-0126-13-L

*P. 835A/835B
P. 80054101
2-26-08*

This Memorandum requests approval by the Board of County Commissioners (BCC) and execution by the Chairman of a Subordination of Utility Interests agreement with respect to the easement interests of Florida Power Corporation "FPC" d/b/a Progress Energy Florida, Inc. relating to Lake Emma Road, particularly Parcel Nos. 126, 755, 835A/835B and 848.

The BCC adopted Resolution No. 2007-R-29, on February 13, 2007, authorizing the acquisition of these parcels involved with Lake Emma Road and finding that the Lake Emma Road road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

FPC has signed and tendered a recordable instrument, entitled Subordination of Utility Interests, for filing in the land records. Please see location map attached as Composite Exhibit A and a copy of the Subordination agreement attached as Composite Exhibit B.

FPC's interest in the referenced parcels are Transmission and Distribution easements. FPC has agreed to provide the subordination of its easement interests without charge. This will also preclude FPC's involvement in the referenced case.

DGS/dre

Attachments:

Composite Exhibit A - Location Map

Composite Exhibit B - Subordination Agreement

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EXHIBIT A



EXHIBIT B

SUBORDINATION OF UTILITY INTERESTS

THIS AGREEMENT, entered into this _____ day of _____, 2008, by and between FLORIDA POWER CORPORATION d/b/a Progress Energy Florida, Inc., whose address is 410 South Wilmington Street, PEB 17B5, Raleigh, North Carolina 27601, hereinafter referred to as the "COMPANY", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY".

WITNESSETH:

WHEREAS, the COMPANY presently has an interest in certain lands that have been determined necessary for use as right-of-way for additional traffic lanes and improved drainage facilities on **Lake Emma Road**; and

WHEREAS, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on **Lake Emma Road** will require subordination of the interest claimed in such lands by the COMPANY to the COUNTY; and

WHEREAS, the COUNTY is willing to pay to have the COMPANY's facilities relocated, if necessary, or to replace COMPANY's easements with new easements encumbering different lands if necessary, to prevent conflict between the facilities so that the benefits of each may be retained,

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, the COMPANY and the COUNTY agree as follows:

THE COMPANY subordinates any and all of its interest in the lands described as follows:

PARCEL NO. 126

FEE SIMPLE

PROPERTY I.D. NO. 19-20-30-522-0F00-0000

LAKE EMMA ROAD

That portion of Tract "F", Huntington Pointe Phase 1, as recorded in Plat Book 49, Page 35, of the Public Records, Seminole County, Florida, being more particularly described as follows:

Begin at the Northeast corner of said plat of Huntington Pointe, said point being the intersection of the existing South right of way line of Emma Oaks Trail (a 50' right of way) and the existing West right of way line of Lake

Emma Road (a 100' right of way); thence run South 00°13'51" East, along said West right of way line, a distance of 38.00 feet; thence departing said right of way line, run North 45°12'24" West, a distance of 35.37 feet; thence run South 89°46'09" West, a distance of 497.88 feet; thence run North 00°13'56" West, a distance of 12.77 feet to said existing South right of way line of Emma Oaks Trail; thence run North 89°44'46" East, along said right of way line, a distance of 522.89 feet to the POINT OF BEGINNING.

Containing 7045 square feet, more or less.

PARCEL NO. 755
TEMPORARY CONSTRUCTION EASEMENT
PROPERTY I.D. NOS: 30-20-30-300-002D-0000
30-20-30-300-0140-0000
30-20-30-300-002P-0000

LAKE EMMA ROAD

That portion of the Northeast 1/4 of the Northwest 1/4 of Section 30, Township 20 South Range 30 East, as recorded in Official Records Book 2114, Page 758 and Official Records Book 2164, Page 817 Seminole County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Northwest 1/4 of said Section 30, thence S89°50'07"W, along the South line of the Southeast 1/4 of the Northwest 1/4, 1268.09 feet to the existing Easterly right-of-way line of Lake Emma Road as described in Deed Book 189, Page 422 of the Public Records of Seminole County, Florida; thence run the following thirteen (13) courses and distances along said right-of-way line, N00°10'08"W, 376.36 feet; thence N89°45'57"E, 17.00 feet; thence N00°10'08"W, 466.82 feet; thence S89°45'58"W, 17.00 feet; thence N00°10'08"W, 200.00 feet; thence N89°45'58"E, 17.00 feet; thence N00°10'08"W, 283.00 feet; thence S89°45'58"W, 17.00 feet; thence N00°10'08"W, 433.00 feet; thence N89°45'58"E, 17.00 feet; thence N00°10'08"W, 200.00 feet; thence S89°45'58"W, 17.00 feet; thence N00°10'08"W, 62.58 feet for the POINT OF BEGINNING; thence continue N00°10'08"W, along said right-of-way line, 276.35 feet; thence departing said right-of-way line, N89°49'52"E, 28.00 feet; thence S00°10'08"E, 22.57 feet; thence S89°49'52"W, 23.00 feet; thence S00°10'08"E, 221.28 feet; thence N89°49'52"E, 24.00 feet; thence S00°10'08"E, 26.50 feet; thence S89°49'52"W, 24.00 feet; thence S00°10'08"E, 6.00 feet; thence S89°49'52"W, 5.00 feet to the POINT OF BEGINNING.

Containing 2537 square feet more or less

**PARCEL NO. 835A
DRAINAGE EASEMENT
PROPERTY I.D. NO. 19-20-30-521-0C00-0000**

LAKE EMMA ROAD

That portion of Lot 11A, Technology Park at Lake Mary, 2nd Replat, according to the Plat thereof as recorded in Plat Book 48, Page 1, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Lot 11A, thence $N00^{\circ}14'57''W$, along the West line of said Lot 11A, 107.51 feet; thence $N33^{\circ}11'12''E$ along said West lot line, 114.97 feet for a POINT OF BEGINNING; thence continue $N33^{\circ}11'12''E$, along said West lot line, 20.41 feet; thence departing said West lot line, run $S46^{\circ}39'01''E$, 96.19 feet to the East line of said Lot 11A; thence run $S44^{\circ}45'03''W$, along said East lot line, 20.09 feet; thence departing said East lot line, run $N46^{\circ}39'01''W$, 92.09 feet to the aforementioned West lot line and the POINT OF BEGINNING.

Containing 1,891 square feet, more or less.

TOGETHER WITH

**PARCEL NO. 835B
ACCESS AND DRAINAGE EASEMENT
PROPERTY I.D. NO. 19-20-30-521-0C00-0000**



LAKE EMMA ROAD

That portion of Lot 11A, Technology Park at Lake Mary, 2nd Replat, according to the Plat thereof as recorded in Plat Book 48, Page 1, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of said Lot 11A, thence $N00^{\circ}14'57''W$, along the West line of said Lot 11A, 107.51 feet; thence $N33^{\circ}11'12''E$ along said West lot line, 66.56 feet for a POINT OF BEGINNING; thence continue $N33^{\circ}11'12''E$ along said West lot line, 48.41 feet; thence departing said West lot line, run $S46^{\circ}39'01''E$, a distance of 29.59 feet; thence $S34^{\circ}44'34''W$, 65.07 feet to a point of curvature of a curve, concave Southeasterly, having a central angle of $49^{\circ}49'23''$, a radius of 55.00 feet and a chord bearing of $S09^{\circ}49'53''W$, thence Southwesterly along the arc of said curve, a distance of 47.83 feet; thence $S15^{\circ}04'48''E$, 16.15 feet; thence $S06^{\circ}32'04''E$, 52.34 feet; thence $S11^{\circ}15'31''E$, 8.52 feet; thence $S26^{\circ}03'04''E$, 6.99 feet to the existing Northerly right-of way-line of Technology Park as according to the Plat as recorded in Plat Book 37, Page 61, Public Records of Seminole County, Florida, said point lying on a curve, concave Northerly and having a central angle of $01^{\circ}28'33''$, a radius of 1121.27 feet and a chord bearing of $S87^{\circ}09'50''W$; thence run

Westerly along the arc of said curve and said right-of-way line, a distance of 28.88 feet; thence departing said curve and said right-of-way line, run N08°36'11"E, 5.01 feet; thence N01°36'16"W, 8.43 feet; thence N06°41'51"W, 47.72 feet to a point on a non-tangent curve, concave Northeasterly, having a central angle of 15°29'12", a radius of 74.26 feet and a chord bearing of N20°36'18"W; thence from a tangent bearing of N28°20'54"W, run Northwesterly along the arc of said curve, a distance of 20.07 feet to a point on a non-tangent curve, concave Easterly, having a central angle of 17°54'14", a radius of 114.11 feet and a chord bearing of N03°20'30"E; thence from a tangent bearing of N05°36'37"W, run Northerly along the arc of said curve, a distance of 35.66 feet to a point on a non-tangent curve, concave Southeasterly, having a central angle of 17°57'06", a radius of 85.96 feet and a chord bearing of N24°14'11"E; thence from a tangent bearing of N15°15'38"E, run Northeasterly along the arc of said curve, a distance of 26.93 feet; thence N34°38'09"E, 24.72 feet; thence N55°21'51"W, 4.99 feet to the aforementioned West lot line and the POINT OF BEGINNING.

Containing 5,194 square feet, more or less.

PARCEL NO. 848

LAKE EMMA ROAD

DRAINAGE EASEMENT

PROPERTY I.D. NO. 19-20-30-517-0000-0110



That portion of Lot 11, Technology Park at Lake Mary Replat, according to the Plat thereof as recorded in Plat Book 43, Page 13, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 11A, Technology Park at Lake Mary, 2nd Replat, according to the plat thereof as recorded in Plat Book 48, Page 1, Public Records of Seminole County, Florida, thence N00°14'57"W, along the West line of said Lot 11A, 107.51 feet; thence N33°11'12"E along said West lot line, 14.25 feet for a POINT OF BEGINNING; thence departing said West lot line run N00°03'28"W, 228.29 feet; thence N24°18'37"W, 37.00 feet; thence N06°03'56"E, 43.50 feet; thence N89°45'03"E, 137.50 feet to the Northwest corner of said Lot 11A; thence S04°15'03"W, along said West lot line, 127.00 feet; thence continue along said West lot line S33°11'12"W, 214.14 feet to the POINT OF BEGINNING.

Containing 0.615 acres, more or less.

to the interest of the COUNTY, its successors, or assigns, for the purpose of constructing, improving, maintaining and operating a road, including drainage facilities, over, through,

upon, and/or across such lands, including, but not limited to, the claim of interest based on the following:

NATURE OF ENCUMBRANCE	DATE	FROM OR AGAINST	IN FAVOR OF	RECORDED BOOK/PAGE
Easement TX	11/16/72	E. F. Callaway and Katherine S. Callaway	Florida Power Corporation	963/1739
Distribution Easement DIST	06/16/95	Collage Design Build, Inc.	Florida Power Corporation	2989/754
Distribution Easement DIST	10/15/97	Weeks Realty, LP	Florida Power Corporation	3374/1221
Easement DIST	12/17/71	Glenn Steele and Loreda Steele	Florida Power Corporation	928/270

PROVIDED that the COMPANY has the following rights:

1. The COMPANY shall have the right to construct, operate, maintain, remove, and relocate facilities on, within, and upon the lands described herein. Any new construction or relocation of facilities within the lands will be subject to prior approval by the COUNTY's Engineer.

2. The COMPANY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the COUNTY's facilities.

3. The COMPANY agrees to repair any damage to COUNTY facilities and to indemnify the COUNTY against any loss or damage resulting from the COMPANY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the COMPANY to alter, adjust, or relocate its facilities located within said lands, the COUNTY hereby agrees to pay the cost of such alteration, adjustment or relocation, including, but not limited to the cost of acquiring appropriate replacement easements. Any relocation, alteration or removal of COMPANY's facilities not required by the COUNTY shall be performed at COMPANY's sole cost and expense.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

ATTEST:

R. Alexander Glenn
R. Alexander Glenn

Assistant Secretary

, Secretary

1300 (CORPORATE SEAL)

STATE OF Florida

COUNTY OF Seminole Pinellas

FLORIDA POWER CORPORATION

By:

J. Dale Oliver

J. Dale Oliver

Vice, President

Date:

1/25/08

3300 Exchange Place

Lake Mary, Florida 32746



I HEREBY CERTIFY that, on this 25th day of January, 2008, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared J. Dale Oliver, and R. Alexander Glenn as President and Secretary, respectively, of Florida Power Corp, a corporation organized under the laws of the State of Florida, who are personally known to me or who have produced _____ as identification. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.



Eileen M. Clark

Print Name

Notary Public in and for the County
and State Aforementioned

My commission expires:



Eileen M. Clark

Commission # DD593488

Expires September 10, 2010

Bonded TROY Fain Insurance, Inc 800-385-7019

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ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BRENDA CAREY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____
2008, regular meeting.

County Attorney

AHS/dre
11/01/07

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